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March 21, 2006

Transmitted via email, hard copy to follow

Honorable Jonathan Adelstein
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Costs borne by Cable Franchisees in Montgomery County

Dear Commissioner Adelstein:

We write to thank you and Mr. Brioché for taking the time to meet with representatives of Montgomery County, Maryland ("County") last Friday afternoon. The purpose of the March 17th meeting was to review the misstatements made by the Verizon witness at the FCC's Keller, Texas hearing regarding the Montgomery County cable television franchise process. The County has filed an ex parte notice to memorialize our conversation and the documents that were shared with the Commission.

During our meeting Mr. Brioché requested that Montgomery County provide the Commission with documentation as to the amount of fees collected from previous cable franchisees to offset the County's costs associated with the cable franchising, transfer, and modification process. Mr. Brioché indicated that he had been told that costs would be in the area of \$600,000 (six hundred thousand dollars) for a cable franchise grant and was seeking clarification from the County.

The enclosed summary presents the costs borne by the respective franchisees related to the five transactions requiring the County be reimbursed since 1999. The amounts reflect the County's use of expert engineers, economic consultants, and attorneys to assist in the analysis

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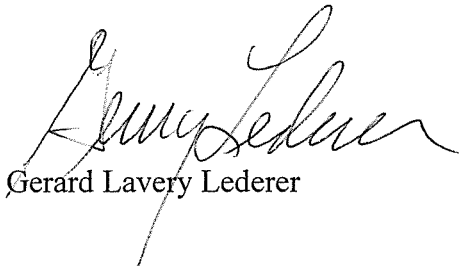
and negotiation of these complex and important transactions. The enclosed makes clear that the County has never requested any amount close to the six hundred thousand dollars claimed. In fact, the most recent transaction being was concluded for fewer than eight thousand dollars (\$8,000).

The County has a firm policy that the costs to the County of creating the business opportunity represented by a cable franchise should be borne by the franchisee's stockholders and subscribers, not by the taxpayers. For that reason, the County has by regulation required that cable television franchisees pay the County's out-of-pocket costs related to expert services the County Executive decides are needed to supplement County staff expertise. A copy of the County's regulation requiring the franchisee reimburse the County's out-of-pocket costs is enclosed.

We hope that this letter and attachments adds some clarity to the claims of extraordinary financial demands for reimbursement. Please direct any questions to the undersigned.

Very truly yours,

MILLER & VAN EATON, P.L.L.C.

By  Gerard Lavery Lederer

CC:

Alisoun Moore

Cliff Royalty

Amy Wilson

Rudy Brioche

Ms. Marlene Dortch, Secretary

Federal Communications Commission Docket File #05-311

County Code Section 8A.9.1

Every franchise grant is subject to a franchise acceptance fee in an amount not exceed the County's costs to consider the application, less the amount of the filling fee.

Executive Regulation 8-92 Cable Television Franchise Application Filing Fees

Section II – Fees, Grant of a New Franchise (Regular) \$25,000

County Costs Associated with Cable Franchising

Transaction	Cost - Reimbursed
1998 – Cable TV Montgomery Franchise Renewal and SBC/Prime Transfer	Data not available- documents archived
Prime/Carlyle Transaction	Data not available- documents archived
1999 – Starpower Franchise	\$153,685.45
2000 – Prime/Comcast Transfer	\$152,048.63
2002 – AT&T/Comcast Transfer	\$89,322.18
2003 – Starpower Franchise Modification	\$36,203.17
2004 – Starpower/RCN Transfer	\$7,877.74



Executive Regulation

Office of the County Executive
Montgomery County, Maryland

Subject CABLE TELEVISION APPLICATION FILING FEES	Number 8-92
Originating Department OFFICE OF CONSUMER AFFAIRS	Effective Date August 30, 1992

Montgomery County Regulations on:

CABLE TELEVISION FRANCHISE APPLICATION FILING FEES
OFFICE OF CONSUMER AFFAIRS

Issued by: County Executive
Regulation No. 8-92

Authority: Code Section 8A-8(b)(2) and
Section 8A-29(b)(4)

Supersedes: Executive Regulation 53-90

Council Review: Method (3) under Code Section 2A-15
Register Vol. 9 No. 7

Effective Date: August 30, 1992
Comment Deadline: July 31, 1992

SUMMARY: Renews an existing regulation which establishes the application filing fees for the grant of a new cable television franchise, the renewal of a franchise, the modification of a franchise, and the transfer of a franchise.

ADDRESS COMMENTS TO: Office of Consumer Affairs/Cable TV
Stella B. Werner Council Office Building, 3rd Floor
100 Maryland Avenue
Rockville, Maryland 20850

STAFF CONTACT: Robert Hunnicutt, Executive Staff Specialist (217-7373)

BACKGROUND INFORMATION:

1. Section 8A-8(b)(2) of the Montgomery County Code, as amended, requires that filing fees for the following cable television applications be established in Executive Regulation:
 - (a) the grant of a new franchise;
 - (b) renewal of an existing franchise under either the formal or informal procedures in Section 626 of the Cable Act;



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- (c) modification of an existing franchise agreement; or
- (d) transfer of a franchise or transfer of an interest in a franchise.

2. Section 8A-29(b)(4) states that the Executive Regulation on application filing fees must be adopted under Method 3.
3. If the application fee is not listed in this Regulation, then no application fee is required for that category. However, other fees required by Chapter 8A of the County Code, such as but not limited to a franchise acceptance fee for new franchises (Section 8A-9(k)), a renewal award fee (Section 8A-22(g)), or a transfer award fee (Section 8A-23(h)) may be imposed by the County.
4. Executive Regulation #53-90 is proposed for readoption as Executive Regulation #8-92 under the County's quadrennial review requirements of Chapter 2A-21 of the Montgomery County Code.



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EXECUTIVE REGULATION

SECTION I AUTHORITY

Section 8A-8(b)(2) of the Montgomery County Code, as amended, requires that application filing fees be established by Executive Regulation. Section 8A-29(b)(4) states that the Executive Regulation on application filing fees must be adopted under Method (3).

SECTION II FEES

The application filing fees shall be as follows:

<u>Type of Application</u>	<u>Amount</u>
1. <u>Grant of a New Franchise</u>	
a. Regular Franchise	\$25,000.00
b. Limited Franchise	
(i) 100 homes or more	\$8,500.00
(ii) Less than 100 homes	\$3,000.00
2. <u>Renewal of a Franchise</u>	
a. Formal Procedures provided for in the federal Cable Act.	\$25,000.00
b. Informal Procedures provided for in the federal Cable Act.	\$25,000.00



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<u>Type of Application</u>	<u>Amount</u>
3. <u>Modification of a Franchise</u> 47 U.S.C. 545 Modification (Section 625 of the federal Cable Act).	\$10,000.00 per modification
4. <u>Transfer of a Franchise</u> a. Transfer or Assignment of a Franchise, or Transfer of Control of a Franchise	\$10,000.00
b. Transfer of an Interest in a Franchise of 25-49%	\$1,500.00

SECTION III EFFECTIVE DATE

This regulation becomes effective 30 calendar days after the deadline for comments in the Register.


Neal Potter
County Executive

Approved as to Form and Legality:
Office of the County Attorney

By: A. Katherine Hart
A. Katherine Hart
Senior Assistant County Attorney

Date: 5/14/92

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